

# **EXHIBIT A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

DANIE L. BELL,

*Plaintiff,*

v.

TYSON FOODS, INC.,

*Defendant.*

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CIVIL ACTION NO. 9:21-CV-140

JURY TRIAL DEMANDED

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INFORMATION PURSUANT TO LOCAL RULE CV-81(c)

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(1) A list of all parties in the case, their party type (e.g., plaintiff, defendant, intervenor, receiver, etc.) and current status of the removed case (e.g., pending, dismissed);

Danie L. Bell  
*Plaintiff*

Tyson Foods, Inc.  
*Defendant*

The removed case is currently pending.

(2) A civil cover sheet and a certified copy of the state court docket sheet; a copy of all pleadings that assert causes of action (e.g. complaints, amended complaints, supplemental complaints, counterclaims, cross-actions, third party actions, interventions, etc.); all answers to such pleadings and a copy of all process and orders served upon the party removing the case to this court, as required by 28 U.S.C. § 1446(a);

See attached civil cover sheet and documents attached to Defendant Tyson Foods, Inc.'s Notice of Removal as ***Exhibit A***.

(3) A complete list of attorneys involved in the action being removed, including each attorney's bar number, address, telephone number and party or parties represented by him/her;

Willard W. Clark, III  
Texas State Bar No. 24087307  
Jacob R. Alford  
Texas State Bar No. 24088856  
Ryne C. Bazan  
Texas State Bar No. 24106635  
Amanda L. Hazleton  
Texas State Bar No. 24076077  
Email: [serviceclark@injuredtexan.com](mailto:serviceclark@injuredtexan.com)  
ALFORD & CLARK PLLC  
4538 Walzem Road  
San Antonio, Texas 78218  
Telephone: 210.951.9467  
Facsimile: 800.347.1865

*Counsel for Plaintiff Danie L. Bell*

Zach T. Mayer  
Texas State Bar No. 24013118  
Email: [zmayer@mayerllp.com](mailto:zmayer@mayerllp.com)  
J. Edward Johnson  
State Bar No. 24070001  
Email: [ejohnson@mayerllp.com](mailto:ejohnson@mayerllp.com)  
G. Adrian Galvan  
State Bar No. 24108601  
Email: [agalvan@mayerllp.com](mailto:agalvan@mayerllp.com)  
MAYER LLP  
750 N. St. Paul Street, Suite 700  
Dallas, Texas 75201  
Telephone: 214.379.6900  
Facsimile: 214.379.6939

*Counsel for Defendant Tyson Foods, Inc.*

(4) A record of which parties have requested a trial by jury (this information is in addition to filing a separate jury demand pursuant to Local Rule CV-38(a)); and

Plaintiff, Danie L. Bell  
Defendant, Tyson Foods, Inc.

(5) The name and address of the court from which the case is being removed.

The 273<sup>rd</sup> Judicial District Court of Shelby County, Texas  
200 San Augustine Street

Center, TX 75935



Date Printed: Mon Aug 16 15:42:45 CDT 2021

## Case Summary

Cause Number: 21CV35719

Last Filed: 07/19/2021

Style: DANIE L. BELL V. TYSON FOODS, INC

Case Type: Injury or Damage: Other Injury Damage

Category: Civil

Court: 273rd District Court

### Event(s) of Case: 21CV35719

#	Type	Date/Time	Description
1.	ORIGINAL PETITION	07/19/2021	PLAINTIFF'S ORIGINAL PETITION - LH D.Bell_POP - EFiled on 07/19/2021. Submitted by Willard Clark (serviceclark@injuredtexas.com)
2.	LETTER	07/19/2021	LETTER REQUESTING CITATION - LH D.Bell_Request for Process - EFiled on 07/19/2021. Submitted by Willard Clark (serviceclark@injuredtexas.com)
3.	EFILE PRINT PREVIEW	07/19/2021	EFILE PRINT PREVIEW - PLAINTIFF'S ORIGINAL PETITION - LETTER IN RE TO CITATION ISSUANCE - LH
4.	CITATION ISSUED	07/21/2021	CITATION ISSUED - TYSON FOODS, INC - EMAILED TO ATTORNEY FOR SERVICE - LH
5.	EMAIL	07/21/2021	EMAIL CONFIRMATION - EMAILED CITATION TO ATTORNEY FOR SERVICE - LH
6.	CITATION RETURNED SERVED	07/23/2021	CITATION RETURNED SERVED - TYSON FOODS - SERVED ON 07.22.21 BY ROBALD COBB- LH AX02A21703235.PDF - EFiled on 07/23/2021. Submitted by Professional Civil Process (easy_serve@pcpusa.net)
7.	EFILE PRINT PREVIEW	07/23/2021	EFILE PRINT PREVIEW - CITATION RETURNED SERVED - TYSON FOODS - SERVED ON 07.22.21 BY ROBALD COBB- LH
8.	ANSWER	08/13/2021	DEFENDANT TYSON FOODS, INC.'S ORIGINAL ANSWER - PW Defendant Tyson Foods, Inc.'s Original Answer - EFiled on 08/13/2021. Submitted by Cathy Preston (cpreston@mayerllp.com)
9.	LETTER	08/13/2021	LETTER FROM ATTY MAYER TO ATTY CLARK RE: ANSWER -PW Ltr to Clark re Defendant's Original Answer and Request Deposition - EFiled on 08/13/2021. Submitted by Cathy Preston (cpreston@mayerllp.com)
10.	EFILE PRINT PREVIEW	08/16/2021	EFILE PRINT PREVIEW - DEFENDANT TYSON FOODS, INC.'S ORIGINAL ANSWER & LETTER TO ATTY - PW
11.	EMAIL	08/16/2021	EMAIL FROM CATHY PRESTON IN RE TO CERTIFIED COPY REQUEST - REPLIED BACK WITH REQUESTED INFORMATION - LH

No Docket Sheet Data Found

STATE OF TEXAS  
COUNTY OF SHELBY  
I, Lori Oliver, District Clerk of Shelby County, Texas do hereby certify that the foregoing is a true and correct copy of the original record, now in my lawful custody and possession, as appears of record in Vol. \_\_\_\_\_, Page \_\_\_\_\_ Minutes of said court on file in my office.

Witness my official hand and seal of office, this 8/16/21

LORI OLIVER, DISTRICT CLERK  
SHELBY COUNTY, TEXAS

By Lauren Harris



Lori Oliver, District Clerk  
Shelby County, Texas  
A CERTIFIED COPY  
pg 1 of 1

545

21CV35719

Filed 7/19/20

Dis  
Shelby Court

DANIE L. BELL

CAUSE NO. 21CV35719

Plaintiff

V.

TYSON FOODS, INC.

Defendant

IN THE DISTRICT COURT OF

SHELBY COUNTY, TEXAS

273RD JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION**

**TO THE HONORABLE JUDGE OF THIS COURT:**

NOW COMES, DANIE L. BELL, Plaintiff, complaining of TYSON FOODS, INC., Defendant, and for causes of action, respectfully shows:

**I.**

**DISCOVERY CONTROL PLAN**

1. Discovery in the matter may be conducted under Level 3 of the Texas Rules of Civil Procedure.

**II.**

**JURISDICTION AND VENUE**

- 2.1. The claims asserted arise under the common law of Texas. This Court has jurisdiction and venue is proper because all or a substantial part of the events or omissions giving rise to this claim occurred in Shelby County, Texas. The matter in controversy does not exceed the sum or value of \$75,000, exclusive of interest and costs.
- 2.2 Federal Courts lack jurisdiction over this suit. There is incomplete diversity of citizenship and Plaintiff's claims raise no federal question. Plaintiff does not seek relief under any



Lori Oliver, District Clerk  
Shelby County, Texas

**CERTIFIED COPY**

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federal law, statute, regulation treaty or constitution, nor do her rights to relief necessarily depend on the resolution of a substantial question of federal law. Thus, removal would be improper.

**III.**

**PARTIES**

3. Plaintiff is a resident of Texas.

4. Defendant TYSON FOODS, INC., an foreign for-profit corporation, maintains business premises at Defendant's business located in Shelby County, Texas, and may be served with process by serving its registered agent, CT Corporation System, 1999 Bryan St., Suite 900, Dallas, Texas 75201.

**IV.**

**MISNOMER/ALTER EGO**

5. In the event any parties are misnamed or are not included herein, it is Plaintiff's contention that such was a "misidentification," "misnomer," and/or such parties are/were "alter egos" of parties named herein. Alternatively, Plaintiff contends that such "corporate veils" should be pierced to hold such parties properly included in the interest of justice.

**V.**

**FACTS & CAUSES OF ACTION**

6. Defendant owns and operates a facility in the business of poultry processing in Shelby County, Texas at 1019 Shelbyville St, Center, TX 75935 (hereinafter "Defendant's premises"). On or about October 4, 2019, Plaintiff was an invitee on Defendant's premises. While working as a Food Safety Sanitor on the back dock of Defendant's premises, Plaintiff tripped and fell off the back dock due to a dangerous condition. Plaintiff then impacted the floor causing them to suffer severe injuries. Plaintiff continues to suffer as a result of Defendant's negligence.

7. Upon information and belief, Defendant's agents or employees created the dangerous



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Shelby County, Texas  
**A CERTIFIED COPY**  
pg 2 of 5



condition. Alternatively, Defendant failed to use reasonable care to protect invitees from the known and unusually high risks accompanying the area where Plaintiff fell by failing to monitor and inspect that area and failing to remove the dangerous condition.

8. Plaintiff was an invitee at the time of injury. Defendant, as owner and operator of the premises, owed Plaintiff a duty to inspect the premises and maintain them in a reasonably safe condition. At the time Plaintiff was injured, the premises posed an unreasonable risk of harm to Plaintiff and others. Defendant knew or should have known of this condition for the following reasons:

- Defendant's agents or employees failed to perform adequate checks of the area in question;
- Defendant's agents or employees did not guard or otherwise warn Plaintiff of the location of the dangerous condition;
- Defendant's agents or employees had attempted to remedy the dangerous condition shortly before Plaintiff's fall, but failed to do so safely and adequately;
- Defendant's agents or employees were aware of the design of the premises, and the fact that the area in question was well trafficked, yet lacked adequate non-slip flooring;
- Defendant's agents or employees had actual knowledge of the dangerous condition;
- Defendant's agents or employees were present at the premises at the time of Plaintiff's injury; or
- Defendant's agent or employees created the dangerous condition.

9. The condition posed an unreasonable risk of harm, and Defendant knew or reasonably should have known of the danger, and Defendant failed to exercise ordinary care to protect Plaintiff from the danger, by both failing to adequately warn Plaintiff of the condition and failing to make that condition reasonably safe. Additionally, a proximate cause of the fall was Defendant's failure to use reasonable care to protect its invitees from the known and unusually high risks accompanying the area where Plaintiff fell. Pleading in the alternative to the premises-liability claim plead herein, Plaintiff



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Shelby County, Texas  
**A CERTIFIED COPY**  
pg 3 of 5

alleges that their injury was the result of a contemporaneous, negligent activity on the property, and that Defendant is liable under ordinary negligence principles.

10. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff has incurred the following damages:

- Reasonable medical care and expenses in the past. These expenses were incurred for the necessary care and treatment of the injuries resulting from the incident complained of herein and such charges are reasonable and were usual and customary charges;
- Reasonable and necessary medical care and expenses which will in reasonable probability be incurred in the future;
- Physical pain and suffering sustained in the past;
- Mental anguish sustained in the past;
- Physical pain and suffering that, in reasonable probability, will be sustained in the future;
- Mental anguish that, in reasonable probability, will be sustained in the future;
- Physical impairment in the past and physical impairment which, in all reasonable probability, will be suffered in the future;
- Disfigurement sustained in the past and disfigurement that, in reasonable probability, will be sustained in the future.
- Loss of earning capacity sustained in the past and loss of earning capacity that, in reasonable probability will be sustained in the future;
- Past and future lost wages; and
- Numerous other out-of-pocket expenses.

11. Plaintiff has suffered severe emotional distress, embarrassment, anxiety, sleeplessness, worry, nervousness and other physical as well as mental pain and anguish and in all reasonable probability, they will continue to suffer such mental and physical pain and anguish for a long time into the future.



Lori Oliver, District Clerk  
Shelby County, Texas  
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V.

**JURY DEMAND**

12. Plaintiff hereby demands a trial by jury.

VI.

**PRAYER**

Plaintiff prays that this citation issue and be served upon Defendant in a form and manner prescribed by law, requiring that Defendant appear and answer, and that upon final hearing, Plaintiff have judgment against Defendant in a total sum in excess of the minimum jurisdictional limits of this Court, plus pre-judgment and post-judgment interests, all costs of Court, actual and consequential damages allowed by law, exemplary damages, and all such other and further relief, to which Plaintiff may show herself justly entitled.

Respectfully submitted,

**ALFORD & CLARK PLLC**

/s/ Willard W. Clark III

Willard W. Clark III

SBN: 24087307

Jacob R. Alford

SBN: 24088856

Ryne C. Bazan

SBN: 24106635

Amanda L. Hazleton

SBN: 24076077

4538 Walzem Road

San Antonio, Texas 78218

Telephone: (210) 951-9467

Facsimile: (800) 347-1865

**For electronic service:**

serviceclark@injuredtexan.com

**ATTORNEYS FOR PLAINTIFF**

STATE OF TEXAS  
COUNTY OF SHELBY  
I, Lori Oliver, District Clerk of Shelby County, Texas do hereby certify that the foregoing is a true and correct copy of the original record, now in my lawful custody and possession, as appears of record in Vol. \_\_\_\_\_, Page \_\_\_\_\_ Minutes of said court on file in my office.

Witness my official hand and seal of office, this 8/16/21.

LORI OLIVER, DISTRICT CLERK  
SHELBY COUNTY, TEXAS

By Kaurin Davis



Lori Oliver, District Clerk  
Shelby County, Texas  
**A CERTIFIED COPY**  
pg 5 of 5



21CV35719

Filed 7/19/2021 5:41 PM

Lori Oliver

District Clerk

Shelby County, Texas

Lauren Harris

Request for ProcessStyle: Danie L. Bell Vs. Tyson Foods, Inc.

Request the following process: (Please check all that Apply)

☒ Citation ☐ Notice ☐ Temporary Restraining Order ☐ Notice of Application for Protective Order  
☐ Temporary Protective Order ☐ Precept with hearing ☐ Precept without a hearing ☐ Writ of Attachment  
☐ Writ of Habeas Corpus ☐ Writ of Garnishment ☐ Writ of Sequestration ☐ Capias ☐ Other: \_\_\_\_\_

1.

Name: Tyson Foods, Inc.Registered Agent/By Serving: CT Corporation SystemAddress 1999 Bryan Street, Suite 900, Dallas, Texas 75201

Service Type: (Check One) ☒ Private Process ☐ Sheriff ☐ Commissioner of Insurance ☐ SA Express News ☐ Hart Beat ☐ Courthouse Door  
☐ Certified Mail ☐ Registered Mail ☐ Out of County ☐ Secretary of State ☐ Constable Pct \_\_\_\_\_

(Pct. 3 serves process countywide)

2.

Name: \_\_\_\_\_

Registered Agent/By Serving: \_\_\_\_\_

Address \_\_\_\_\_

Service Type: (Check One) ☐ Private Process ☐ Sheriff ☐ Commissioner of Insurance ☐ SA Express News ☐ Hart Beat ☐ Courthouse Door  
☐ Certified Mail ☐ Registered Mail ☐ Out of County ☐ Secretary of State ☐ Constable Pct \_\_\_\_\_

(Pct. 3 serves process countywide)

3.

Name: \_\_\_\_\_

Registered Agent/By Serving: \_\_\_\_\_

Address \_\_\_\_\_

Service Type: (Check One) ☐ Private Process ☐ Sheriff ☐ Commissioner of Insurance ☐ SA Express News ☐ Hart Beat ☐ Courthouse Door  
☐ Certified Mail ☐ Registered Mail ☐ Out of County ☐ Secretary of State ☐ Constable Pct \_\_\_\_\_

(Pct. 3 serves process countywide)

4.

Name: \_\_\_\_\_

Registered Agent/By Serving: \_\_\_\_\_

Address \_\_\_\_\_

Service Type: (Check One) ☐ Private Process ☐ Sheriff ☐ Commissioner of Insurance ☐ SA Express News ☐ Hart Beat ☐ Courthouse Door  
☐ Certified Mail ☐ Registered Mail ☐ Out of County ☐ Secretary of State ☐ Constable Pct \_\_\_\_\_

(Pct. 3 serves process countywide)

Title of Document/Pleading to be Attached to Process: Plaintiff's Original PetitionName of Attorney/Pro se: Willard W. Clark IIIBar Number: 24087307Address: 4538 Walzem RoadPhone Number: 210-951-9467San Antonio, Texas 78218Attorney for Plaintiff ☒ Defendant \_\_\_\_\_ Other \_\_\_\_\_

Lori Oliver, District Clerk  
 Shelby County, Texas  
 A CERTIFIED COPY  
 pg. 1 of 1



LORI OLIVER, DISTRICT CLERK - P.O. DRAWER 1953, CENTER, TX 75701

936-598-4164

Cause No. 21CV35719

THE STATE OF TEXAS

DANIE L. BELL

|

IN THE DISTRICT COURT

V.

|

OF

TYSON FOODS, INC.

|

SHELBY COUNTY, TEXAS

TO: TYSON FOODS, INC., by serving CT CORPORATION SYSTEM, at 1999 Bryan Street, Suite 900, Dallas, Texas 75201:

**Notice to defendant:** You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the first Monday following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 3 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.

You are hereby commanded to appear by filing a written answer to the attached **PLAINTIFF'S ORIGINAL PETITION** or before 10:00 o'clock A.M. on the Monday next after the expiration of 20 days after the date of service of this citation, before the 123/273<sup>RD</sup> Judicial District Court of Shelby County, Texas at the Courthouse in said County in Center, Texas. Said Plaintiff's Petition was filed in said court on the 19<sup>TH</sup> day of July, 2021 in the above entitled cause.

The nature of Plaintiff's demand is fully shown by a true and correct copy **PLAINTIFF'S ORIGINAL PETITION** accompany this citation and made a part hereof.

Issued and given under my hand and seal of said Court at Shelby County Texas this 21<sup>ST</sup> day of July, 2021

Attorney for Plaintiff or Plaintiffs:  
Willard W. Clark III  
4538 Walzem Road  
San Antonio, Texas 78218  
(210) 951 - 9467

Lori Oliver  
District Clerk  
Shelby County, Texas

By Lauren Harris  
Lauren Harris, Deputy Clerk



## Service Return

Came to hand on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ m and executed on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ M by delivering to the within named \_\_\_\_\_ in person a true copy of this citation, with attached copy(ies) of the \_\_\_\_\_ at \_\_\_\_\_

[ ] Not executed. The diligence use in finding defendant being \_\_\_\_\_  
[ ] Information received as to the whereabouts of defendant being \_\_\_\_\_  
Service Fee: \$ \_\_\_\_\_  
Service ID No. \_\_\_\_\_

STATE OF TEXAS  
COUNTY OF SHELBY  
I, Lori Oliver, District Clerk of Shelby County, Texas do hereby certify that the foregoing is \_\_\_\_\_ of the original record \_\_\_\_\_ County, Texas possession as appears of record in Vol. \_\_\_\_\_ Page \_\_\_\_\_ Minutes of said court on file in my office.

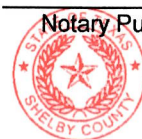
Deputy/Authorized Person

On this day, \_\_\_\_\_, known to me to be the person whose signature appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME ON \_\_\_\_\_, 20\_\_\_\_.

Witness my office, hand and seal of office,  
LORI OLIVER, DISTRICT CLERK  
SHELBY COUNTY, TEXAS

By Lauren Harris



Notary Public Lori Oliver, District Clerk  
Shelby County, Texas  
A CERTIFIED COPY  
pg \_\_\_\_\_ of \_\_\_\_\_



21CV35719

From: District Clerk &lt;district.clerk@co.shelby.tx.us&gt;

Sent: Wed, Jul 21, 2021 at 10:17 am

To: SERVICECLARK@INJUREDTEXAN.COM

1PLAINTIFF'S-ORIGINAL-PETI.pdf (184.6 KB)

4CITATION-ISSUED---TYSON-F.pdf (68.1 KB) — Download all

I HAVE ATTACHED THE REQUESTED DOCUMENTS. THANK YOU

LAUREN HARRIS  
DEPUTY CLERKLori Oliver  
Shelby County District Clerk

P.O. Drawer 1953

Center, Texas 75935

(936) 598-4164

district.clerk@co.shelby.tx.us

STATE OF TEXAS  
COUNTY OF SHELBY  
I, Lori Oliver, District Clerk of Shelby  
County, Texas, do hereby certify that the  
foregoing is a true and correct copy of the  
original record, kept in my lawful custody and  
possession, and is a true and correct copy of the  
original record in Vol. \_\_\_\_\_,  
Page \_\_\_\_\_, signed on this \_\_\_\_\_ day of \_\_\_\_\_  
in my office.

Witness my official hand and seal of office,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

LORI OLIVER, DISTRICT CLERK  
SHELBY COUNTY, TEXAS

By \_\_\_\_\_



Lori Oliver, District Clerk  
Shelby County, Texas  
A CERTIFIED COPY  
pg \_\_\_\_\_ of \_\_\_\_\_

21CV35719

Filed 7/23/2021 8:37 AM

Lori Oliver

RUSH SERVICE District Clerk  
Shelby County, Texas  
Lauren Harris

273rd District Court of SHELBY County, Texas  
200 SAN AUGUSTINE STREET SUITE 3 CENTER TX 75935

CASE #: 21CV35719

DANIE L. BELL

Plaintiff

VS

TYSON FOODS, INC.

Defendant

AFFIDAVIT OF SERVICE

I, RONALD COBB, make statement to the fact;  
That I am a competent person more than 18 years of age or older and not a party to this action, nor interested in outcome of the suit. That I received the documents stated below on 07/22/21 12:16 pm, instructing for same to be delivered upon TYSON FOODS INC. BY DELIVERING TO, REGISTERED AGENT, CT CORPORATION SYSTEM.

That I delivered to: TYSON FOODS INC. BY DELIVERING TO, REGISTERED AGENT, CT CORPORATION SYSTEM. By Delivering to Latoya Sterns, SOP Intake Specialis

the following : CITATION; PLAINTIFF'S ORIGINAL PETITION

at this address : 1999 BRYAN STREET, SUITE 900  
Dallas, Dallas County, TX 75201

Manner of Delivery : By PERSONALLY delivering the document(s) to the person above.

Delivered on : Thursday JUL 22, 2021 2:56 pm

My name is RONALD COBB, my date of birth is JUN 12th, 1980, and my address is Professional Civil Process Of Texas, Inc, 103 Vista View Trail, Spicewood TX 78669, and U.S.A. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Dallas County, State of Texas, on the 22nd day of

July, 2021.

RONALD COBB 2969 Declarant

TX Certification#: PSC-4574 Exp. 12/31/2021



AX02A21703235

tomcat

eaffidavits@pcpusa.net

Service Fee: 125.00 PCP Inv#: A21703235

Witness Fee: .00

Mileage Fee: .00 Reference : 21CV35719

Clark, Willard William (III)

E-FILE RETURN

Lori Oliver, District Clerk  
Shelby County, Texas

A CERTIFIED COPY

pg 1 of 2



LORI OLIVER, DISTRICT CLERK - P.O. DRAWER 1953, CENTER, TX 75935

936-598-4164

Cause No. 21CV35719

THE STATE OF TEXAS

DANIE L. BELL

V.

TYSON FOODS, INC.

IN THE DISTRICT COURT

OF

SHELBY COUNTY, TEXAS

TO: TYSON FOODS, INC., by serving CT CORPORATION SYSTEM, at 1999 Bryan Street, Suite 900, Dallas, Texas 75201:

**Notice to defendant:** You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the first Monday following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 3 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.

You are hereby commanded to appear by filing a written answer to the attached **PLAINTIFF'S ORIGINAL PETITION** or before 10:00 o'clock A.M. on the Monday next after the expiration of 20 days after the date of service of this citation, before the 123/273<sup>RD</sup> Judicial District Court of Shelby County, Texas at the Courthouse in said County in Center, Texas. Said Plaintiff's Petition was filed in said court on the 19<sup>TH</sup> day of July, 2021 in the above entitled cause.

The nature of Plaintiff's demand is fully shown by a true and correct copy **PLAINTIFF'S ORIGINAL PETITION** accompany this citation and made a part hereof.

Issued and given under my hand and seal of said Court at Shelby County Texas this 21<sup>ST</sup> day of July, 2021

Attorney for Plaintiff or Plaintiffs:

Willard W. Clark III  
4538 Walzem Road  
San Antonio, Texas 78218  
(210) 951-9467

Lori Oliver  
District Clerk  
Shelby County, Texas

By Lauren Harris  
Lauren Harris, Deputy Clerk



## Service Return

Came to hand on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ m and executed on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ M by delivering to the within named \_\_\_\_\_ in person a true copy of this citation, with attached copy(ies) of the \_\_\_\_\_ at \_\_\_\_\_

[ ] Not executed. The diligence use in finding defendant being \_\_\_\_\_

[ ] Information received as to the whereabouts of defendant being \_\_\_\_\_

Service Fee: \$ \_\_\_\_\_

Service ID No. \_\_\_\_\_

STATE OF TEXAS  
COUNTY OF SHELBY  
I, Lori Oliver, District Clerk of Shelby County, Texas do hereby certify that the foregoing is a true and correct copy of the original record. Sheriff/Constable \_\_\_\_\_ County, Texas  
Page \_\_\_\_\_ Minutes of said court on file in my office.

Deputy/Authorized Person \_\_\_\_\_

Witness my official hand and seal of office, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

On this day, \_\_\_\_\_, known to me to be the person whose signature appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME ON \_\_\_\_\_, 20\_\_\_\_.

By Lauren Harris

Notary Public



Lori Oliver, District Clerk  
Shelby County, Texas  
**A CERTIFIED COPY**  
pg. 2 of 2

21CV35719

Filed 8/13/2021 4:09 PM  
Lori Oliver  
District Clerk  
Shelby County, Texas  
Pamela Whitton

CAUSE NO. 21CV35719

DANIE L. BELL,	§	IN THE DISTRICT COURT
<i>Plaintiff,</i>	§	
	§	
v.	§	
	§	273 <sup>RD</sup> JUDICIAL DISTRICT
TYSON FOODS, INC.,	§	
<i>Defendant.</i>	§	
	§	SHELBY COUNTY, TEXAS

---

DEFENDANT TYSON FOODS, INC.'S ORIGINAL ANSWER

---

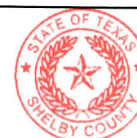
Defendant Tyson Foods, Inc. ("Defendant") files its Original Answer and states the following:

I.  
GENERAL DENIAL

1. Defendant denies each and every, all and singular, the material allegations contained within the Original Petition filed by Plaintiff, Danie L. Bell ("Plaintiff"), and demands strict proof thereof.

II.  
AFFIRMATIVE DEFENSES

2. Pleading further, alternatively, and by way of affirmative defense, Defendant would state that in the unlikely event that an adverse judgment would be rendered against it, Defendant would respectfully request all available credits and/or offsets as provided by the Texas Civil Practice and Remedies Code and under Texas law.





3. Pleading further, alternatively, and by way of affirmative defense, Defendant asserts that any damages sought to be recovered by Plaintiff should be reduced to the extent that Plaintiff has failed to mitigate his claimed damages and failed to take the reasonable steps that a person of ordinary prudence in a similar situation would have taken to avoid the claimed damages.

4. Pleading further, alternatively, and by way of affirmative defense, Defendant asserts that in addition to any other limitation under law, Plaintiff's recovery of medical or health care expenses be limited to the amount actually paid or incurred by or on behalf of Plaintiff, pursuant to Section 41.0105 of the Texas Civil Practices and Remedies Code.

5. Pleading further, alternatively, and by way of affirmative defense, Defendant asserts that pursuant to the Patient Protection and Affordable Care Act ("ACA") and common-law, Plaintiff has a duty to mitigate the amount of future damages for medical care by purchasing a health insurance policy no later than March 31, 2014 in accordance with the Individual Mandate prescribed in 26 U.S.C. § 5003A *et. seq.* Further, Defendant's potential liability for future medical care should be limited to the amounts not covered under the ACA for co-pays and deductibles. In the alternative, if Plaintiff has purchased a health insurance policy pursuant to the Individual Mandate, Plaintiff's future medical expenses should be limited to the amount the ACA will actually pay for medical expenses and not the full retail cost of future medical care.

6. By way of affirmative defense, Defendant invokes Chapter 33 of the



Texas Civil Practices & Remedies Code and pleads that Plaintiff's claims are barred, in whole or in part, by the contributory and/or comparative negligence of Plaintiff and/or other parties, or alternatively, that the conduct of other parties, including Plaintiff, was an independent, intervening, superseding, and/or sole proximate cause of Plaintiff's alleged damages. Therefore, Defendant is not liable for such damages.

7. By way of affirmative defense, Defendant pleads that Plaintiff's damages, if any, should be limited to the extent they were caused by Plaintiff's preexisting injuries and/or preexisting medical conditions that occurred or arose before the incident forming the basis of this lawsuit.

8. By way of affirmative defense, Defendant invokes Section 18.091 of the Texas Civil Practices & Remedies Code requiring that Plaintiff prove any alleged loss of earnings and/or loss of earning capacity in a form that represents net loss after reduction for income tax payments or unpaid tax liability. Additionally, Defendant requests that the Court instruct the jury as to whether any recovery for compensatory damages sought by the Plaintiff is subject to federal and state income taxes.

9. Pleading further, alternatively, and by way of affirmative defense, Defendant asserts that the causes of action asserted by Plaintiff in the present lawsuit are barred as the result of waiver of these causes of action by Plaintiff.

10. Pleading further, alternatively, and by way of affirmative defense, Defendant asserts that Plaintiff is estopped from asserting the causes of action



made the basis of this lawsuit by contract.

11. Pleading further, alternatively, and by way of affirmative defense, Defendant asserts that Plaintiff is equitably estopped from asserting the causes of action made the basis of this lawsuit.

12. Pleading further, alternatively, and by way of affirmative defense, Defendant asserts that Plaintiff is barred from asserting the causes of action made the basis of this lawsuit due to Plaintiff's prior release of said causes of action against Defendant.

13. Pleading further, alternatively, and by way of affirmative defense, Defendant asserts that Plaintiff is barred from asserting the causes of action made the basis of this lawsuit pursuant to Plaintiff's election of remedies. The causes of action asserted by Plaintiff in the present lawsuit are inconsistent with a prior election made by Plaintiff and constitutes a manifest injustice to Defendant.

14. Pleading further, alternatively, and by way of affirmative defense, Defendant asserts that Plaintiff is barred from asserting the causes of action made the basis of this lawsuit pursuant to Section 408.001 of the Texas Labor Code.

15. Defendant hereby gives notice that it intends to rely upon such other defenses or denials, affirmative or otherwise, and to assert third-party claims and any other claims, as may become available or appear during discovery as it proceeds in this matter, and hereby reserves the right to amend its Answer to assert such defenses.



**III.  
JURY DEMAND**

16. In accordance with Rule 216 of the Texas Rules of Civil Procedure, Defendant demands a trial by jury.

**IV.  
PRAYER**

Defendant Tyson Foods, Inc., prays that Plaintiff take nothing by this suit, that Defendant goes hence with its costs without delay, and for such other and further relief, both general and special, at law and in equity, to which Defendant may show itself justly entitled.





Respectfully submitted,

**MAYER LLP**

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**ATTORNEYS FOR DEFENDANT  
TYSON FOODS, INC.**

**CERTIFICATE OF SERVICE**

This is to certify that on the 13<sup>th</sup> day of August 2021, a true and correct copy of the foregoing has been forwarded to all counsel of record, as follows:

**Via eFileTexas.gov**  
[serviceclark@injuredtexan.com](mailto:serviceclark@injuredtexan.com)  
Willard W. Clark III  
Jacob R. Alford  
Ryne C. Bazan  
Amanda L. Hazleton  
Alford & Clark PLLC  
4538 Walzem Road  
San Antonio, Texas 78218

STATE OF TEXAS  
COUNTY OF SHELBY  
I, Lori Oliver, District Clerk of Shelby County, Texas do hereby certify that the foregoing is a true and correct copy of the original record, now in my lawful custody and possession, as appears of record in Vol. \_\_\_\_\_, Page \_\_\_\_\_ Minutes of said court on file in my office.

Witness my official hand and seal of office, this 8/16/21.

/s/ Zach T. Mayer  
Zach T. Mayer  
By Lori Oliver  
LORI OLIVER, DISTRICT CLERK  
SHELBY COUNTY, TEXAS



21CV35719

MAYER

Filed 8/13/2021 4:09 PM

Lori Oliver

District Clerk

Shelby County, Texas

Pamela Whitton

ZACH T. MAYER

(214) 379-6909

[zmayer@mayerllp.com](mailto:zmayer@mayerllp.com)

August 13, 2021

Via eFileTexas.gov

[serviceclark@injuredtexas.com](mailto:serviceclark@injuredtexas.com)

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San Antonio, Texas 78218

RE: **Danie L. Bell v. Tyson Foods, Inc.**

Cause No. 21CV35719

Court: In the 273<sup>rd</sup> Judicial District Court of Shelby County, Texas

Our File No.: 58140.00241

Dear Counsel:

Attached please find **Defendant Tyson Foods, Inc.'s Original Answer** in the above-captioned case.

*Please be advised that we would like to take your client's deposition, on a mutually agreeable date and time, following our receipt of Plaintiff's answers to Defendant's forthcoming written discovery requests.*

In case you have any questions or require additional information, please do not hesitate to contact Edward Johnson at 214-379-6911 or [ejohnson@mayerllp.com](mailto:ejohnson@mayerllp.com) and Adrian Galvan at 214-379-4327 or [agalvan@mayerllp.com](mailto:agalvan@mayerllp.com). Thank you for your cooperation and assistance in this matter.

Very truly yours,

MAYER LLP

By:

Zach T. Mayer

STATE OF TEXAS  
COUNTY OF SHELBY  
I, Lori Oliver, District Clerk of Shelby County, Texas do hereby certify that the foregoing is a true and correct copy of the original record, now in my lawful custody and possession, as appears of record in Vol. \_\_\_\_\_, Page \_\_\_\_\_, Minutes of said court on file in my office.

Witness my official hand and seal of office, this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

LORI OLIVER, DISTRICT CLERK  
SHELBY COUNTY, TEXAS

By: Karen Hays

